law liability for negligence; but *Hart* v. *Penna. R. R. Co.* and the cases which follow it, draw a distinction between limiting liability in general for negligence and limiting liability to a valuation agreed upon in advance. The Texas and Ohio courts follow the Pennsylvania rule. See *S. P. Ry. Co.* v. *Maddox* (1889), 75 Tex. 300, 12 S. W. Rep. 815, *St. Louis A. & T. Ry. Co. v. Robbins* (1889), 14 S. W. Rep. (Tex.) 1075; and *Ambach* v. *B. & O. Ry. Co.* (1896), 4 Ohio Dec. 467 (following *U. S. Express Company* v. *Blackman* (1875), 28 Ohio St. 14). In Iowa, § 2074 of the Code prohibits contracts of this kind; see *Burlington C. R. & N. Ry. Co.* (1900), 84 N. W. Rep. (Iowa) 673. In regard to the consideration for such contracts, it was *held* in *St. Louis S. W. Ry Co.* v. *McIntyre* (1904), 82 S. W. Rep. (Mo.) 346, that there must be an actual consideration, that is, a lower freight rate really given; and in *Evansville & T. H. Ry. Co.* v. *Kevekordes* (1904), 69 N. E. Rep. (Ind.) 1022, that the consideration must be more than the mere contractual relation of the parties. In *Bermel* v. *New York, N. H. & H. Ry. Co.* (1901), 70 N. Y. S. 804, the rather unique doctrine was announced that a contract of this kind merely relieved the carrier of its common law liability as an insurer, and that the carrier was still liable, as bailee for hire, for the full value of the goods lost through negligence. This decision was sustained in (1901), 62 App. Div. 389, but overruled in (1903), 172 N. Y. 639.

CARRIERS—OWNERS OF PASSENGER ELEVATORS—NOT LIABLE AS COMMON CARRIERS.—Plaintiff, an employé of one of defendant's tenants, was injured by the falling of one of defendant's elevators, in which he was a passenger. Held, that the trial court erred in not giving the following charges to the jury: "1. The owner of a building containing a passenger elevator therein, operated by such owner, is not a common carrier, and not an insurer of the safety of persons using the elevator;" "2. If the jury find that the defendant used reasonable care and prudence in the construction, maintenance, and operation of the elevator, the verdict should be for the defendant. *Edwards* v. *Manufacturers' Bldg. Co.* (1905), — R. I. —, 61 Atl. Rep. 646.

The decision in this case is clearly opposed to the great weight of authority, in so far as it declares that the owner of a passenger elevator is not a common carrier, and liable as such. The court adopts the reasoning in *Griffen* v. *Manice* (1901), 166 N. Y. 197, which holds that the owner of a passenger elevator need not exercise more than reasonable care and prudence in its maintenance and operation, and that he should not be held to the extraordinary liability of a common carrier of passengers inasmuch as the operation of a passenger elevator is not essentially different, in its nature, from the operation of other dangerous appliances in a building, such as heating apparatus, electric lights, etc., and the law of real property requires only reasonable care in the operation of such appliances. This seems to be the rule in Massachusetts, *Salomon* v. *Sternfeld* (1886), 142 Mass. 83, 7 N. E. 43; and in Michigan, *Burgess* v. *Stowe* (1903), 134 Mich. 204, 96 N. W. Rep. 29. On the other hand, the great majority of cases hold that the owner of a passenger elevator is a common carrier, and, like common carriers, must exercise the highest degree of care which human foresight can suggest. See the list of such cases given in THOMPSON, COMMENTARIES

ON THE LAW OF NEGLIGENCE, Vol. I, pg. 980; and see particularly the following cases: *Goodsell* v. *Taylor* (1889), 41 Minn. 207, 42 N. W. 873; *Treadwell* v. *Whittier* (1889), 80 Cal. 574, 22 Pac. Rep. 266; *Marker* v. *Mitchell* (1893), 54 Fed. Rep. 637 and (1894), 62 Fed. Rep. 140; *Kentucky Hotel Co.* v. *Camp* (1895), 97 Ky. 424, 30 S. W. Rep. 1010; *Southern Bldg. & Loan Assn.* v. *Lawson* (1896), 97 Tenn. 367, 37 S. W. Rep. 86, 56 Am. St. Rep. 804 (with extended note); *Hartford Deposit Co.* v. *Solitt* (1898), 172 Ill. 222, 50 N. E. Rep. 178; and *Edwards* v. *Burke* (1904), 78 Pac. Rep. (Wash.) 610. Like the principal case, however, these cases all agree that the owner of a passenger elevator is not an insurer of the safety of its passengers.

CARRIERS—OWNERS OF PASSENGER ELEVATORS—LIABLE AS COMMON CARRIERS.—Plaintiff was injured by stepping through an open and unguarded entrance to an elevator shaft in defendant's store, the elevator being for the use of defendant's customers. Plaintiff was a customer of defendant and had been directed by defendant to take the elevator to the second floor where he could make certain purchases. *Held,* that these facts established the relation of carrier and passenger. *Morgan* v. *Saks* (1905), — Ala. —, 38 So. Rep. 848.

This case was decided but a few months before *Edwards* v. *Manufacturers' Bldg. Co.* (1905), 61 Atl. Rep. (R. I.) 646, and follows the weight of authority, while the latter case holds to the contrary rule. See preceding note.

CONSTITUTIONAL LAW—INDETERMINATE SENTENCE—INVASION OF EXECUTIVE OR JUDICIAL FUNCTIONS.—A provision in Shannon's (Tennessee) Code, § 7423, that "The board of workhouse commissioners may, on recommendation of the superintendent, deduct, for good conduct, a portion of the time for which any person has been sentenced, or a portion of the fine," *held* unconstitutional as being a delegation of legislative authority and in derogation of the governor's pardoning power, and the judicial authority of the courts. *Fite, Superintendent of County Workhouse* v. *State ex rel Snider* (1905), — Tenn. —, 88 S. W. Rep. 941.

It is universally held, and this case admits, that statutes defining credits for good behavior and operating only upon sentences subsequently pronounced, take effect as entering into the sentence, and are not an invasion of the prerogative of the governor, nor a vesting of judicial power in the prison board. *Opinion of Justices,* 13 Gray (Mass.) 618; *Ex parte Nokes,* 6 Utah 106; *In re Walsh,* 87 Mich. 466. But since the statute operates on the sentence and not on the criminal, it cannot affect those sentenced before its passage. *State* v. *McClellan,* 87 Tenn. 52; *In re Canfield,* 98 Mich. 644. Indeterminate sentence laws authorizing the prison commissioners to parole at discretion prisoners who have served a certain part of the term are upheld, by the weight of authority, on the ground that the convicts are still in custody, only the place and nature of the imprisonment being changed (*State* v. *Peters,* 43 Ohio St. 629), or on the broader ground that it is not a pardoning power, since it is not arbitrary, nor is it judicial, since it has nothing to do with the adjudging of innocence or guilt, *Conlon's Case,*